

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-1920-2009(O&M)
Date of decision:-20.2.2018

Satish Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Raj Kapoor Malik, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Petitioner – Satish Kumar and Dinesh Kumar, booked in FIR No.205 dated 6.4.1998, under Sections 420, 468, 470, 471, 120-B IPC, registered with Police Station City, Kaithal faced trial by learned Additional Chief Judicial Magistrate, Kaithal, who vide judgment dated 13.2.2007 acquitted accused Dinesh Kumar, whereas convicted accused Satish Kumar for the offences under Sections 420, 467, 468 and 471 IPC and vide order dated 15.2.2007, he was sentenced as under:

Offence under Section	Sentence Awarded
Section 420 IPC.	Rigorous imprisonment for a period of four years and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for a period of thirty days.

Section 467 IPC.	Rigorous imprisonment for a period of four years and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for a period of thirty days.
Section 468 IPC.	Rigorous imprisonment for a period of four years and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for a period of thirty days.
Section 471 IPC	Rigorous imprisonment for a period of four years and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for a period of thirty days.

All the sentences were ordered to run concurrently.

Briefly stated, facts of the case as per prosecution version are that the complainant – finance company, namely M/s Shree Om Finvest Limited, Dhand Road, Kaithal having its head office at Ambala engaged in business of financing vehicles had financed a tractor Mark Eicher to Satish Kumar - accused for a sum of Rs.1,00,000/- and hire purchase agreement was entered into between them; that the accused had executed an affidavit dated 29.8.1997 that he would not transfer this tractor to anybody else till the loan amount was repaid but he committed defaults in repayment of the dues and later on it was found that he sold the tractor on the basis of forged 'No Dues Certificate'; that tractor was seized by the police; that accused Dinesh Kumar had colluded with Satish Kumar in granting NOC from the office of Sub-Registrar, Kaithal.

Feeling aggrieved, the accused Satish Kumar had filed an appeal in the Court of Sessions, which was disposed of vide judgment dated 14.7.2009 passed by learned Additional Sessions Judge, Kaithal whereby conviction of the appellant/convict was maintained but sentence

was reduced to rigorous imprisonment for three years instead of four years.

The accused – convict was dissatisfied with such judgment also and has preferred a revision petition before this Court praying that the same be accepted, the impugned judgment of his conviction and order of sentence passed by Additional Chief Judicial Magistrate, Kaithal and judgment in appeal passed by Additional Sessions Judge, Kaithal be set aside and he be acquitted of the charge framed against him.

I have heard learned counsel for the parties besides going through the record.

At the very outset, it may be mentioned here that learned counsel for the revision petitioner states that he does not challenge the impugned judgments passed as regards the conviction part and would confine his arguments only qua quantum of sentence. He has contended that the dues of the complainant M/s Shree Om Finvest Company, Kaithal have since been cleared, which has issued a certificate in that regard. Learned State counsel was directed to verify the genuineness of that certificate and he has informed that the certificate so submitted is genuine and all the dues of complainant company stand paid.

Learned counsel for the revisionist has further contended that the FIR relates to the year 1998 and now the petitioner is an old man having children and he has undergone 5 months and 6 days in this case, therefore, leniency be shown to him.

After hearing rival contentions of learned counsel for the parties, I find that ends of justice would be squarely met if the petitioner

is sentenced to imprisonment already undergone by him, while in custody in the present case. Therefore, the impugned judgments are upheld as regards conviction part qua the petitioner.

However, as far sentence part is concerned, the same are modified and the petitioner is sentenced to imprisonment already undergone by him as mentioned supra. The fine is stated to have already been paid.

As such the revision petition challenging the impugned judgments stand disposed of with above modification in sentence.

Necessary information be sent to the quarter concerned.

20.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No